IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 10609 of 2005
Date of Decision: Sept. 26,2007

Maha Singh ..... Petitioner

Versus

State of Haryana and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta

Present: Mr. S.N.Saini, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

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ASHUTOSH MOHUNTA, J. (Oral)

The petitioner has prayed for quashing the impugned order dated 6.6.2005 passed by the District Primary Education Officer, Kaithal, Annexure P-7 by which the request of the petitioner for treating his date of appointment to be from November 1991 instead of 3.12.1992 was rejected. The petitioner has also prayed that respondents be directed to release his pensionary benefits.

Briefly the facts of the case are that the petitioner was selected for the post of JBT Teacher and vide Annexure P-3 was asked to report in the office of the District Primary Education Officer, Kaithal, along with the following certificates in original:-

1. Matriculation Examination Certificate which contains detailed marks.
2. J.B.T. Certificate.
3. Regarding registration of name in the Employment Exchange which may prove the exemption in age limit.

The petitioner appeared before respondent No.3 along with the requisite certificates. However, the duplicate Matriculation Certificate did

not contain the details of the subject. The petitioner submitted the Matriculation Examination Certificate which contained the detailed marks of each subject in December 1992 and accordingly appointment order to the petitioner was issued on 3.12.1992 for the post of J.B.T. Teacher. The petitioner filed a representation before respondent No.3 that as he had been selected on Nov.14,1991, therefore, his appointment as J.B.T. Teacher be considered from that date and not from 3.12.1992. The representation of the petitioner has been rejected vide impugned order Annexure P-7 passed by respondent No.3.

A perusal of the order Annexure P-7 shows that as the petitioner in pursuance to the orders dated 3.12.1992 had joined service as J.B.T. Teacher on 8.12.1992, therefore, the petitioner cannot be considered to have been appointed with effect from 14.11.1991. The petitioner has never worked in the Education Department with effect from 14.11.1991 but had worked only with effect from 8.12.1992 and therefore his request to consider him as having been appointed with effect from November, 1991 has rightly been rejected vide the impugned order.

Counsel for the petitioner has further submitted that the petitioner is entitled to the pensionary benefits as he has superannuated on attaining the age of 58 years on 31.5.2002. It is submitted that although the petitioner has been paid the death-cum-retirement gratuity but no pension has been sanctioned. Counsel for the petitioner has placed reliance on ***Ramesh Chand Kaushik v. State of Haryana*** 1994 (1) S.C.T. 227 wherein the employee had put in 19-1/2 years of service. Although the qualifying service was 20 years, but he was granted the pensionary benefits.

A perusal of facts in ***Ramesh Chand Kaushik's case (supra)*** shows that the petitioner had worked with the Haryana Government from March 1951 to April 1964 and December 1982 to 28.2.1989 i.e. 19-1/2 years. In-between he had worked continuously in the Army. Thus, the petitioner in that case had worked continuously, therefore, it was held that he is entitled to the pensionary benefits. However, in the present case the petitioner is not entitled to the pensionary benefits in view of Rule 6.12 (1) of the CSR Vol. II according to which “where total qualifying service at the time of retirement is less than 10 years, no pension is admissible. In such

cases, only service gratuity is admissible."

There is no ambiguity in the aforementioned Rule according to which an employee must have a total qualifying service of 10 years before he is entitled to claim pensionary benefits. In the instant case, the appointment order of the petitioner was issued on 3.12.1992 and he retired from service on 31.5.2002 and, thus, has less than 10 years of qualifying service. In view of the above, the petitioner is not entitled to any pensionary benefit also.

Resultantly, there is no merit in this writ petition and the same is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

26.9.2007
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